



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** West Georgia Industrial Piping and Plumbing,  
Inc.  
**File:** B-227754  
**Date:** September 22, 1987

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### **DIGEST**

1. Contention that award under invitation for bids for river improvement work is improper where low bid exceeds original government estimate by more than 25 percent, in view of statutory prohibition on performing such work by private contract where contract price is more than 25 percent higher than government estimate, is dismissed as academic where contracting agency subsequently increased government estimate and, as a result of the revision, which the protester does not challenge, low bid falls within 25 percent statutory limitation.
2. Absence of bidder's and surety's corporate seals from bid and bid bond does not make bid nonresponsive since evidence of a signer's authority to bind bidding company or surety may be furnished after bid opening.

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### **DECISION**

West Georgia Industrial Piping and Plumbing, Inc. (WGI) protests any award under invitation for bids (IFB) No. DACW38-87-B-0016, issued by the Corps of Engineers for construction of general sanitary improvements at Blakely Mountain Dam, Lake Ouachita, Arkansas. We deny the protest.

Of the seven bids received under the IFB, D&H Construction Co., Inc. submitted the lowest bid (\$126,268.22); WGI was the third low bidder (\$151,950). The government estimate for the work was \$96,293. In its initial protest submission, WGI contended that because the low bid was more than 25 percent higher than the government estimate, the Corps could not properly make award under the IFB and instead should cancel it and resolicit. Although WGI did not cite any statutory authority for its argument, it appears to be based on 33 U.S.C. § 624(a)(2) (1982), which prohibits river and harbor improvement work to be done through private contract if the Secretary of the Army, through the Chief of

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Engineers, determines that the contract price is more than 25 percent greater than a fair and reasonable estimate of the cost of performing the work.

In its report on the protest, the Corps states that the government estimate has been increased to \$110,001.45, and the low bid under the IFB (\$126,268.22) thus is within the 25 percent statutory limitation. As a result of the revision of the government estimate, which WGI does not challenge, the protest that the low bid was not within 25 percent of the estimate is academic.

To the extent WGI also argues that the IFB was defective because the estimated cost range shown on the IFB (\$100,000-\$250,000) exceeded the original government estimate, this issue also is academic in light of the upward revision of the estimate. In any event, specifying an inaccurate estimated cost range on the face of an IFB is a minor error which would not affect the propriety of an award under the IFB. See Western Ventures, B-210611, Mar. 1, 1983, 83-1 CPD ¶ 218.

Finally, WGI, the third low bidder, contends that the two lower bids are nonresponsive and thus that, even if award properly may be made under the IFB, WGI is in line for award as the lowest responsive bidder. WGI first argues that the lowest bid, submitted by D&H Construction Co., Inc., is nonresponsive because D&H failed to affix its corporate seal to the bid and its bid bond likewise lacked the surety's corporate seal. We find this argument to be without merit. The absence of the corporate seals from the bid and bid bond does not make the bid nonresponsive since evidence of a signer's authority to bind the bidding company or the surety may be furnished after bid opening. Siska Construction Co., Inc.--Request for Reconsideration, B-218208.2, Mar. 21, 1985, 85-1 CPD ¶ 331. Since WGI's challenge to the responsiveness of the lowest bid is without merit, we need not consider its challenge to the second low bid. See National Service Co., B-214915.3, et al., Dec. 27, 1984, 84-2 CPD ¶ 706.

The protest is denied.

*for* *Signature* *Sfor*  
Harry R. Van Cleve  
General Counsel